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**Human rights situations that require the Council's attention**

# Written statement* submitted by Human Rights Now, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[15 February 2016]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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# Current Human Rights Situation in Myanmar

## 1. Introduction

Human Rights Now (HRN), a Tokyo-based international human rights NGO, welcomes the recent progress towards democracy and legal reforms in Myanmar and expects democratic transition will be peacefully advanced soon following the general election last November 2015.
However, we remain seriously concerned over the human rights situation in Myanmar given continuing human rights violations. These include discrimination against Rohingya and other minorities, human rights violations in conflict areas, continuing restrictions on media and free expression, land confiscations, and other issues highlighted by UPR recommendations. HRN calls on Myanmar to meet its international obligations by rectifying these human rights violations with appropriate and effective measures, and to follow recommendations from the UPR process. Also, it stresses the necessity to extend the mandate of the UN Special Rapporteur on the situation in Myanmar under Agenda Item 4.

## 2. Rohingya and other minority rights

The rights of minorities continue to be violated in Myanmar, most significantly the Rohingya population of northern Rakhine state.

Under four discriminatory laws passed in 2014 and 2015—The Religious Conversion Law, the Population Control Healthcare Law, the Buddhist Women's Special Marriage Law and the Monogamy Law—Rohingya and other Muslims need state permission to convert, marry, and have more than two children or face criminal sanction. These laws inhibit Muslims' social integration in the name of "protecting race and religion," and they violate numerous rights including the freedom of religion and association.[1]

The ability of Rohingya, along with other former Temporary Registration Card Holders, to have equal access to applying for citizenship through a non-discriminatory process continues to be restricted, including by the 1982 Citizenship Law which limits the granting of citizenship based on ethnicity or race.[2] In the 2015 census, persons self-identifying as "Rohingya" were not included, leaving them uncounted and their status precarious.[3] The non-citizenship status of Rohingya means they are not protected by important rights and subject to persecutions without recourse.

There are severe restrictions on Rohingya's freedom of movement in Rakhine state including curfews and a need for authorities' permission for meetings or travel between townships.[4] These restrictions on movement are in the context of widespread displacement of Rohingya following 2012 communal violence and 2015 flooding in Rakhine state, with about 140,000 living in displacement camps with squalid conditions and lack of access to health care, food, water, sanitation, education, and work, violating Rohingya's rights to all of these, and particularly negatively impacting Rohingya women.[5] The situation has precipitated a trafficking crisis as a reported 32,000 people (many Rohingya) were smuggled out of Myanmar in 2015 to flee persecution, often with the participation of corrupt local authorities.[6]

Myanmar authorities allow persecutions, violence, and hate speech against Rohingya to continue with impunity, perpetuating their discrimination.[7]

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[1] http://thediplomat.com/2015/08/the-truth-about-myanmars-new-discriminatory-laws/.
[2] http://www.nationalityforall.org/burma-myanmar.
[3] http://www.rfa.org/english/news/myanmar/census-03132014181344.html.
[4] http://www.rvisiontv.com/rohingya-students-denied-of-intra-township-travel-permissions/.
[5] http://www.aljazeera.com/indepth/features/2015/08/displaced-rohingya-rocked-devastating-floods-150826102826508.html.
[6] http://www.ucanews.com/news/small-scale-people-smuggling-reported-in-myanmar/74890.
[7] http://www.aljazeera.com/indepth/opinion/2014/01/patterns-impunity-deceit-myanm-201412415234772853 5.html.

### 3. Human rights violations in conflict zones

Human rights violations in Myanmar have been particularly concentrated in conflict areas. UNHCR estimates 587,000 internally displaced persons (IDPs) in Myanmar, and the Internal Displacement Monitoring Centre reports 662,400 IDPs due to conflict, primarily in Kachin, north Shan, and Rakhine states, to camps where living conditions are dire and access to health, education, and work is limited.[8]

There have been continuing reports of torture, ill treatment, and sexual violence by the Myanmar military in conflict zones in Kachin, northern Shan, and Rakhine states, with widespread impunity for these violations.[9] Criminal investigations are either not carried out or are flawed, and military courts are not transparent.[10] Persons making allegations against the military have also found themselves subject to criminal defamation charges.[11]
Regarding the recruitment of child soldiers, despite efforts to end the practice, it continues by the military, border forces, and non-state armed groups, and child soldiers which attempt to leave the military continue to be detained as "deserters."[12]

### 4. Violations of the freedoms of assembly and expression

While the Myanmar government has reformed some media laws since 2012, such as dissolving its censorship board, widespread restrictions on freedom of expression and assembly remain.[13]
The 2014 Law on the right to Peaceful Assembly and Peaceful Procession requires demonstrations to receive government approval or face criminal sanctions, and vague and broad language permits arrests and detentions for peaceful assemblies virtually at authorities' discretion, as was seen in the peaceful protests in Letpadaung and Michaungkan in late 2014 and early 2015.[14]
With regards to journalism, a report by the PEN American Center recently detailed continuing prosecutions, jail sentences, harassment, physical attacks, censorship, weak protection, restrictive laws, and intrusive bureaucracy for journalists and media workers.[15] Freedom House lists multiple laws under which acts of investigative journalism may be directly or indirectly (through overbroad or ambiguous language) criminalized, restricting the ability of a free press to hold the government accountable.[16]

### 5. Land rights and confiscations

Land confiscations and forced evictions by the military, police, and private companies in the name of "land development," as well as the displacements they cause without sufficient compensation or access to services, remain a serious problem in Myanmar, prompting protests among farmers, women, and ethnic groups.[17] Farmers are threatened with arrests to leave their land, and a variety of laws give the government significant discretion to confiscate land with

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[8] http://www.internal-displacement.org/south-and-south-east-asia/myanmar/figures-analysis; http://www.burmalink.org/background/thailand-burma-border/displaced-in-burma/.
[9] http://www.fortifyrights.org/downloads/Fortify%20Rights_Myanmar_9_June_2014.pdf; http://www.shanhumanrights.org/index.php/news-updates/205-shooting-killing-and-torture-of-civilians-by-burma-army-during-kokang-conflict.
[10] http://hrp.law.harvard.edu/wp-content/uploads/2014/11/2014.11.05-IHRC-Legal-Memorandum.pdf, pp. 74 ff.
[11] http://www.taipeitimes.com/News/editorials/archives/2015/11/06/2003631785.
[12] http://www.child-soldiers.org/news_reader.php?id=838.
[13] http://www.mediasupport.org/media-reform-myanmar-government-media-must-learn-change-ways/.
[14] https://www.article19.org/data/files/medialibrary/37666/14-08-01-LA-myanmar-assembly.pdf, pp.4-5.
[15] http://www.rfa.org/english/news/myanmar/myanmar-court-sentences-journalist-for-protesting-without-a-permit-12182015164619.html.
[16] https://freedomhouse.org/report/freedom-press/2015/myanmar (laws permitting press criminalization include the 2008 Constitution, 1950 Emergency Provisions Act, 2013 Telecommunications Law, 2004 Electronics Transactions Law, and 1923 Official Secrets Act).
[17] http://hrn.or.jp/eng/wp-content/uploads/2016/02/mudec2015report.pdf, pp. 6-7.

little to no protections for farmers land rights, particularly in a context where many farmers do not possess formal title, and customary and communal land use is unprotected.[18]

**7. Recommendations**

(1) Human Rights Now calls on the government of Myanmar to respect international human rights obligations and standards on the following issues.

In General:

- Amend the Constitution to remove provisions inconsistent with Myanmar's international obligations, such as those giving the military immunity from prosecution, vague language for exceptions to rights, and the limitation of universal rights only to citizens;
- Implement the recommendations received by the UPR Myanmar working group;[19]
- Ratify major human rights treaties such as ICCPR, ICESCR, CAT, ICERD, and ICCPED;
- Invite the OHCHR into a country office with full capacity;

On the issue of Rohingya and other minority rights:

- Resolve the citizenship status of former temporary registration card holders and remove discriminatory restrictions on their access to citizenship;
- Ensure The Religious Conversion, Population Control Healthcare, Buddhist Women's Special Marriage, and Monogamy Laws are consistent with Myanmar's international obligations by removing language discriminating treatment of Muslims;
- Enact measures to end hate speech against Muslims which encourages discriminatory legislation and incites communal violence;
- Respect Rohingya's and other minorities' right to self-identification in all administrative processes;
- Lift travel restrictions and other restrictions on the freedom of movement in Rakhine state;
- Ensure access to health, education, and other services for all displaced persons without discrimination;

On the issue of violations in conflict areas:

- Conduct prompt and impartial investigations of allegations of military abuses in conflict areas, and end prosecutions of persons bringing allegations;
- End child recruitment with recruitment procedures and independent oversight, and make recruitment of children into the military a criminal offense;

On the issue of restrictions on freedom of assembly and expression:

- Amend the Peaceful Assembly and Peaceful Assembly Law and related penal laws to permit peaceful protests without arrests or crackdowns;

On the issue of land takings:

- Ensure development and land-use projects respect land owners in line with international human rights standards; do not force their evictions; and ensure they are sufficiently compensated and secured with access to basic services, education, and work in their new locations following any land taking;
- Reform land laws to provide ownership rights for individuals or groups with customary or communal land possession;

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[18] http://www.burmalibrary.org/show.php?cat=3211 (reported laws include the Land Acquisition Act, the 2012 Farmland Law, and the Vacant, Fallow and Virgin Land Law, and the draft National Land Use Policy).

[19] A/HRC/31/13, http://www.upr-info.org/sites/default/files/document/session_23_-_november_2015/a_hrc_31_13.pdf, pp. 4 ff.

(2) HRN also requests the UN Human Rights Council to adopt the resolution to extend the mandate of the UN special rapporteur on the situation in Myanmar under agenda item 4 in order to support successful democratic transition and promote human rights.